



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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FEB 28 2011

Ref: 8 EPR-N

Mr. Eddie Bateson, District Manager
Bureau of Land Management
Worland Field Office
P.O. Box 119
Worland, WY 82401-0119

Re: Final Environmental Impact Statement for the
Westside Land Conveyance Project, Big Horn and
Washakie Counties, Wyoming, CEQ# 20110032

Dear Mr. Ogaard:

In accordance with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. Section 433(2)(C) and Section 309 of the Clean Air Act, 42 U.S.C. Section 7609, the U.S. Environmental Protection Agency Region 8 (EPA) has reviewed the Bureau of Land Management's (BLM) Final Environmental Impact Statement (FEIS) for the Westside Land Conveyance Project and offers the following comments for your consideration.

Under the Proposed Action for this project, BLM would sell all rights, title, and interest in the land identified in Public Law 106-485 to the Westside Irrigation District (WID), except for mineral rights. This land would then be re-sold to private individuals or institutions for crop production in parcels of 160 acres, up to a maximum of 960 acres per individual. Two action alternatives with different boundaries, acreage, and impacts were evaluated in the Draft EIS. However, further analysis and comments received during the Draft EIS comment period have led the BLM to propose a preferred alternative in this FEIS that reduces the conveyed acreage. This reduction addresses concerns and impacts on cultural and natural resources and Wyoming Department of Transportation (WYDOT) operations. The parcels removed include cultural resource sites and an important wildlife migration area along the Washakie-Bighorn county line; the southeastern boundary in Washakie County identified as a gravel source for WYDOT that also contains a closed landfill; and four parcels located along the southern and western Alternative 2 boundary in Washakie County containing cultural resource sites. Under this Reduced Irrigable Acres Alternative 3 scenario, the BLM would sell to the WID all rights, title, and interest in the selected lands, except for mineral rights, amounting to approximately 9,740 acres, of which 8,280 would be irrigable.

We have reviewed your responses to DEIS comments and offer several brief comments:

1. EPA endorses the Reduced Irrigable Acres Alternative 3 scenario presented in this FEIS and notes that this alternative avoids all wetlands and is responsive to our DEIS comments.
2. EPA agrees with the statement on page ES-4 of the FEIS that a "... baseline for groundwater quality be established as part of the Section 404 permit (water diversion) analysis . . . , due to the presence of shallow (less than 50 feet in depth) domestic wells in the area. . . and that a suite of up-gradient monitoring wells be installed as the precise recharge characteristics and overall ground water flow regime is unknown."
3. Section 2.3 Connected Actions states that, "Depending on final project design, use of water from the Bighorn River may require additional permits, such as a Section 404 permit under the Clean Water Act (CWA), which could trigger additional NEPA analysis by the appropriate agency." To satisfy CWA 404 requirements, EPA recommends that any future permit involving depletions from the Bighorn River include a more detailed analysis of the potential direct, secondary, and cumulative effects of water depletions on the Bighorn River aquatic ecosystem. This analysis should include actual instream flow measurements in addition to the proposed modeling. We note that other agencies, including the Army Corps of Engineers, have also commented on the need for this analysis.

We appreciate the opportunity to review and comment on this FEIS and responsiveness summary. If you have any questions regarding these comments, please feel free to call me at (303) 312-6004. You may also contact Robin Coursen of my staff at (303) 312-6695.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Svoboda", with a long horizontal flourish extending to the right.

Larry Svoboda, Director
NEPA Compliance and Review Program
Office of Ecosystems Protection and Remediation

Cc:

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